(1)
Supreme Court, U.S.
FILED
No. 01945 JUN 28 2001
OFFICE OF THE CLERK

In The

Supreme Court of the United States

Cecile A. Lennix

v.

Air Liquide of America

On Petition for Writ of Certiorari
To The Supreme Court
State of Louisiana

PETITION FOR WRIT OF CERTIORARI

Cecile A. Lennix
Pro Se
1817 Armant Ct.
LaPlace, LA 70068
(985) 652-2268

20 pp

Questions Presented for Review

1. May an employer elect not to complete and report an accident on an employee who is injured while at work?

2. May a court have an appellant to testify and not be sworn in by a Bailiff?

3. Can a District Judge refuse to address a Motion of Correction to a transcript that is paid for by the appellant?

4. What Court will address docket number 36603 filed, paid, and served on Air Liquide of America on February 29, 2000?

Parties to the Proceeding

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Martha Y. Curtis #20446
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Statute

Assignment of Errors - C C P 2 1 2 9

Statement of Facts - C C P 2 1 3 0

402 US 389 28L Ed 842, 91 S Ct 1420

Citation of Opinions and Orders in the Case

1. February 29, 2000, Petition of Damage served on Air Liquide of America docket number 36603.

2. March 20, 2000, Fortieth Judicial District Court Parish of St. John the Baptist State of Louisiana docket number 36603 Judge Mary Hotard Becnel Division C.

3. April 20, 2000, Judgment from Judge J. Sterling Snowdy 40th Judicial District court Parish of St. John the Baptist docket number 36603.

4. December 23, 2000, received by certified letter number 7000 0600 0028 1537 1569 Motion to Reinstate Oral Argument No. 00-CA-1698 5th Circuit Court of Appeal.

5. January 11, 2001, received by certified letter number 7000 0600 0027 7841 1265 court date Fifth Circuit Court of Appeal no. 00-CA-1698.

6. February 28, 2001, Judgment on case No. 00-CA-1698.

7. May 04, 2001, The Supreme Court of the State of Louisiana denied Writ of Certiorari no. 2001-C-0812.

Basis for Jurisdiction

1. The Supervisor Investigation of accident sheet was not signed, executed, and reported to the proper authorities.

2. The merits of docket number 36603 filed in the 40th Judicial District Court have not been addressed in any lower court proceedings in the State of Louisiana.

Constitutional Provision

The Constitution of the United States of America, Article XIV, which provides in pertinent part: "Nor shall any state deprive any person of life, liberty, or property without due process of law."

Statement of the Case

I would like to appeal the decision rendered by the Supreme Court of the State of Louisiana.

Appellant was hired at Big Three Industries, now Air Liquide of America, in February 1981.

On Sunday, June 27, 1993, while performing duties as an assistant operator at Big Three Industries, now Air Liquide of America, anhydrous ammonia, 95% or better purity, was inhaled by appellant Cecile A. Lennix. The required Supervision Investigation of Accident form was never signed, executed, and reported to the proper authorities. Appellant visited the company doctor on 06/28/93 and 06/30/93. February 29, 2000, appellant paid and served docket number 36603 on Air Liquide of America through the 40th Judicial District Court in the Parish of St. John the Baptist, Edgard, Louisiana.

Appellant is asking this court to address docket number 36603 filed on Air Liquide of America on 02/29/2000. My complaint is not with the State of Louisiana under docket number 36207.

Argument

Merits of case not heard in lower courts, therefore need Federal relief.

June 27, 1993, appellant had an accident where anhydrous ammonia, 95% pure or better, was inhaled. June 28, 1993, visited Christy Montegut, plant doctor, with revisit on June 30, 1993. Ex A

There were four different docket numbers in the 40th Judicial District Court in Edgard, Louisiana: 96-1558 transferred from Civil District Court for the Parish of Orleans filed January 31, 1996; 36603, 36207, and 35758, each of which had a brief follow up notation. First page of petition docket number 36603 dated March 13, 1997 by Audrey Holmes, clerk of court. December 29, 1999 appellant received docket number 36603 from 40th Judicial District Court clerk of court's office in Edgard, Louisiana. Ex B

February 29, 2000, filed, paid, and served docket number 36603 on Air Liquide of America. Ex C

March 20, 2000, court order on docket number 36603 by Judge Mary Hotard Becnel for April 20, 2000. On arrival at the 40th Judicial District Court April 20, 2000, docket number 36603 was assigned to Judge J. Sterling Snowdy.

April 20, 2000 and January 11, 2001, appellant was not sworn in by Bailiff at the 40th Judicial District Court in Edgard, LA, nor the 5th Circuit Court of Appeal in Gretna, LA. Witnesses were Olivia French and Rev. Earnest August, Jr., respectively.

The Court of Appeal erred in the interpretation of controlling precedent and grossly misapplied long standard Summary Judgment Standards.

November 14, 2000, appellant visited the Fifth Circuit Court of Appeal clerk of court office and received the Notice of Civil Appeal on docket number 36603. Ex D

November 21, 2000, motion to submit exhibits was denied by the Fifth Circuit Court of Appeal but did approve oral argument for Thursday, January 11, 2001. Ex E

January 11, 2001, appellant did ask the panel of Judges Sol Gothard, Clarence E. McManus, and Walter J. Rothschild to have Air Liquide of America to show their copy of the Supervision Investigation of Accident Sheet dated June 27, 1993, also that Judge Mary Hotard Becnel judgment was rendered on docket number 36207. Appellant filed, paid, and served docket number 36603 on Air Liquide of America which have not been addressed.

My complaint is not with the State of Louisiana docket number 36207, in which judgment was rendered on February 12, 1997, by Judge Mary Hotard Becnel.

March 19, 1997, appellant received letter dated March 11, 1997 from Civil District Court for the Parish of Orleans with CDC no. 96-1558 Div. "D"/Sec. "8" addressed to Honorable Montegut. Ex F

Affidavits of Kenneth Pelham and Ferrell Yarbrough demonstrate that appellant received no financial assistance from the accident of June 27, 1993. Ex G

Appellant is filing for damages on Air Liquide of America under LA. CIV. CODE ANN art. 1958. Appellant is asking this court to please grant the Writ of Certiorari. Justice too long delayed is justice denied.

Appellant hopes, pray, and kept the faith that appellant would be rewarded with the maximum amount of any and everything that are due her from the accident of June 27, 1993-until.

Appendix

1. Fortieth Judicial District Court, Parish of St. John the Baptist, State of Louisiana, No. 36603, Division "C", Cecile A. Lennix versus Air Liquide, Inc. Order

2. Fortieth Judicial District Court, Parish of St. John the Baptist, State of Louisiana, No. 36603, Division "C", Cecile A. Lennix versus Air Liquide, Inc. Judgment

3. Court of Appeal, Fifth Circuit, State of Louisiana, No. 00-CA-1698, Cecile A. Lennix versus Air Liquide, Inc. Order

4. Court of Appeal, Fifth Circuit, State of Louisiana, No. 00-CA-1698, Cecile A. Lennix versus Air Liquide, Inc., on Appeal from the 40th Judicial District Court, Parish of St. John the Baptist, State of Louisiana, No. 36603, Division "C". Affirmed

5. The Supreme Court of the State of Louisiana, No. 2001-C-0812, Cecile A. Lennix versus Air Liquide, Inc. Applying for Writ of Certiorari and/or Review. Denied

FORTIETH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

NUMBER: 36603 DIVISION: "C"

CECILE A. LENNIX
VERSUS
AIR LIQUIDE, INC.

FILED_____ _____
DEPUTY CLERK

ORDER

CONSIDERING the above and foregoing;

IT IS ORDERED that the Plaintiff show cause on the 20th day of April 2000, at 9:30 o'clock why the Exceptions of Air Liquide America Corporation should not be maintained, dismissing plaintiff's suit at plaintiff's costs.

Edgard, Louisiana, this 21 day of March, 2000.

"s/Mary Hotard Becnel"
Judge for Division C

PLEASE SERVE WITH AIR LIQUIDE AMERICA CORPORATION'S EXCEPTIONS AND RULE TO SHOW CAUSE:

Cecile A. Lennix
1 817 A rmant Court
Laplace, Louisiana 70068

40TH JUDICIAL DISTRICT COURT

PARISH OF ST. JOHN THE BAPTIST

STATE OF LOUISIANA

CECILE *LENNIX*

VS.

AIR LIQUIDE, INC.

No. 36603 DIV1SION "C"

F1LED: _____ _____

DEPUTY CLERK

JUDGMENT

This matter came for a hearing on thirteen Exceptions of Air Liquide America Corporation on April 20th, 2000.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the exceptions of Res Judicata and Prescription are **GRANTED**.

The mover filed a Petition for Judicial Review of the decision of the Office of Employment Security, affirming the administrative law judge denying the mover of unemployment benefits, in this Court on December 12, 1996 in Division "B" under docket number 36207. The decision of the Louisiana Board of Review with respect to the claim of employment was mailed to the mover on January 16, 1996. Under LSA R.S. 23:1630, an appeal to the District Court must he filed within fifteen (15) days of the mailing of the decision of the review board. In a Judgment dated February 12, 1997, the Honorable Mary Hotard Becnel granted the exception of peremption.

In the instant case, the mover, Cecile Lennix, filed a Petition for Damages against only her former employer stating in paragraph VI, "The plaintiff now appeals the decision rendered by the State unemployment board." This

suit, even though titled "Petition for Damages", from the face of the pleading is asking this Court to review the decision of the State Unemployment Board. Therefore, under Louisiana Code of Civil Procedure Art. 927(2), this Court holds that the instant suit is Res Judicata in light of the previous Judgment rendered in this very Court on February 12, 1997. This Court also holds that Prescription has run under LSA R.S. 23:1630, due to the fact that the mover had fifteen (15) days from January 16, 1996 to have the decision of the Louisiana Board of review.

FURTHER, in light of the granting of the exceptions stated above, this Court will not address the other exceptions of Insufficiency of Service of Process, Lack of Subject Matter Jurisdiction, Lis Pendens, Nonconformity of the Petition, Vagueness, Lack of Procedural Capacity, Nonjoinder of a Party, No Cause of Action and No Right of Action.

Read, rendered and signed at,

Edgard, Louisiana, this 20 day of April, 2000.

"s/J. Sterling Snowdy"

JUDGE

CECILE LENNIX NO.	NO. 00-CA-1698
VERSUS	COURT OF APPEAL
AIR LIQUIDE, I.	FIFTH CIRCUIT
	STATE OF LOUISIANA

ORDER

The Motion to Reinstate Oral Argument filed by plaintiff is hereby granted.

Gretna, Louisiana this 22ND day of December, 2000.

"s/Sol Gothard"
JUDGE SOL GOTHARD

NOT DESIGNATED FOR PUBLICATION

CECILE A. LENNIX

VERSUS

AIR LIQUIDE, INC.

NO. 00-CA-1698

FIFTH CIRCUIT

COURT OF APPEAL

STATE OF LOUISIANA

ON APPEAL FROM THE 40TH
JUDICIAL DISTRICT COURT
PARISH OF ST. JOHN THE BAPTIST,
STATE OF LOUISIANA
NO. 36603, DIVISION "C"
THE HONORABLE J. STERLING SNOWDY, JUDGE
PRESIDING

FEBRUARY 28, 2001

SOL GOTHARD
JUDGE

Panel composed of Judges Sol Gothard,
Clarence E. McManus, and Walter J. Rothschild

JAMES M. GARNER
MARTHA Y. CURTIS
ELIZABETH S. ROBINS

Sher Garner Cahill Richter
Klein McAlister & Hilbert
909 Poydras Street, 28th Floor
New Orleans, Louisiana 70112
Attorneys for Defendant/Appellee

CECILE A. LENNIX
In Proper Person
1817 St. Armant Court
Laplace, Louisiana 70068
Plaintiff/Appellant

AFFIRMED

Plaintiff, Cecile Lennix, instituted this suit in Orleans Parish, and it was subsequently transferred to the 40th Judicial District Court for the Parish of St. John the Baptist. In her petition, plaintiff alleges that on September 13, 1995, after fifteen years of employment, she received formal notice that her employment with defendant had been terminated. At that time, she had been on full, medical disability status as the result of an injury that she sustained in the course and scope of her employment with the defendant. Immediately after her termination, plaintiff attempted to receive unemployment benefits with the State of Louisiana; however, she was denied those benefits. In her petition, plaintiff states that "The plaintiff now appeals the decision rendered by the State unemployment board," Although plaintiff's petition is styled "Petition for Damages," it is clear that plaintiff seeks review from the State's denial of unemployment benefits.

On March 20, 2000 defendant, Air Liquide, Inc., filed various declinatory and peremptory exceptions, including exceptions of prescription and res judicata. On April 20, 2000 the trial court granted defendant's exceptions. Plaintiff now appeals.

We see no error in the decision of the trial court. The record before us reflects plaintiff sought review of the denial

on unemployment compensation benefits, and that the Louisiana Board of Review denied plaintiff's appeal on January 16, 1996. Plaintiff filed a petition for review of that decision in the 40th Judicial District Court on December 12, 1996. However, La. R.S. 23:1630 provides a delay of 15 days to appeal a decision of the Louisiana Board of Review. Thus, plaintiff's suit filed some eleven months later was untimely. By judgment rendered on February 12, 1997, the trial court granted defendant's exceptions and found that plaintiff's claims were perempted.

In this suit, plaintiff again seeks review of the decision of the Louisiana Board of Review, which upheld the denial of her unemployment compensation benefits. The trial court had previously found that plaintiff's appeal was untimely, and that decision is res judicata to any further proceedings on her claim for unemployment benefits. La. R.S. 13:4231. Accordingly, the trial court in the instant case did not err in granting defendant's motion and dismissing plaintiff's cause of action.

For the above discussed reasons, the decision of the trial court is affirmed.

The Supreme Court of the State of Louisiana

CECILE A. LENNIX

VS. NO. 2001-C-0812

AIR LIQUIDE, INC.

IN RE: Lennix, Cecile A.; - Plaintiff; Applying for Writ of Certiorari and/or Review, Parish of St. John, 40th Judicial District Court Div. C, Nos. 36603, to the Court of Appeal, Fifth Circuit, No. 00-CA-1698

May 4, 2001

Denied

CDK
PFC
BJJ
JPV
CDT
JTK
PCC

Supreme Court of Louisiana
May 4, 2001

"s/Rai T. Daigle"
Deputy Clerk of Court
For the Court